

November 15, 2010

VIA E-MAIL AND COURIER

Christopher Hughey
Acting General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: John McCain 2008 Response to "Reason to Believe" Notification in MUR 6112

Dear Mr. Hughey:

This letter and enclosed documentation constitute John McCain 2008's response to the Commission's September 13, 2010 "Reason to Believe" Notification.

After sending the Notification, the Commission identified \$3,514,865 in alleged "outstanding excessive" contributions on a spreadsheet document. John McCain 2008 has now appended notes for each contribution entry in that spreadsheet document, which is enclosed.¹ Virtually all of the issues identified were previously addressed with the Commission through disclosure reports and Request For Additional Information ("RFAI") responses. As recarded on the enclosed spreadsheet document, the alleged "outstanding excessive" contributions can be categorized into the following groups:

1. Contributions Listed with an Incorrect Remedy Date—The Commission incorrectly classified as "outstanding excessive" a significant number of contributions that were in fact remedied within 60 days of receipt. John McCain 2008 has supplied the correct remedy date, as found on public disclosure reports, for each of these contributions on the attached spreadsheet document.
2. Permissible Contributions Inaccurately Listed as Excessive—A portion of the "outstanding excessive" contributions listed by the Commission were actually made in permissible amounts. In some of these instances, the Commission may have aggregated contributions for multiple donors who share the same name.
3. Contributions Properly Redesignated for GELAC—As shown on disclosure reports submitted to the Commission, many "outstanding excessive" contributions were permissibly redesignated for use by the McCain-Palin Compliance Fund (i.e. GELAC). Report page numbers are listed for some of these redesignations to aid

¹ Spreadsheet document labeled as Appendix A.

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the Commission's verification process. Page numbers for any other redesignations will be provided upon request.

4. Voided Refunds Disbursed to Charities or the U.S. Treasury—Certain refund checks remained uncashed by the payee for an extended period of time and John McCain 2008 eventually voided them. As explained in a December 18, 2009 RFAI response addressed to the Commission, John McCain 2008 disbursed all amounts attributable to voided refunds to public charities or to the U.S. Treasury.
5. Contributions Properly Remedied but Remedies Not Reported—Some "outstanding excessive" contributions were remedied properly, but John McCain 2008 did not report the occurrence of the redesignations, reattributions, or refunds. John McCain 2008's disclosure reports will be amended as soon as possible.
6. "Primary After Primary" Contributions—For all "primary after primary" contributions that were made within the permissible time frame, the Committee made memo entries on Commission reports and retained proof of contribution date in the form of postmarks and other materials. The Committee can produce said proof upon request for any particular contribution. Any "primary after primary" contribution received after the permissible time frame was either redesignated for the McCain-Palin Compliance Fund or refunded, as shown on disclosure reports filed with the Commission. Please note that the Commission's Audit Division already reviewed John McCain 2008's "primary after primary" records as part of its mandatory audit under 11 C.F.R. § 9007.1.
7. Contributions Refunded More than 60 Days after Receipt—As discussed in previous RFAI responses to the Commission, certain "outstanding excessive" contributions have already been refunded to the contributors, but those refunds took place more than 60 days after receipt. These contributions are therefore no longer excessive.
8. Contributions for Refund—A small number of "outstanding excessive" contributions must still be refunded. The amount of these refunds (\$16,967) represents six-thousandths of one percent of the \$246,427,813.46 in contributions received by John McCain 2008. And most of the refund amount is attributable to inadvertent and inevitable processing errors—previously unmerged duplicate records and a partnership attribution that was received after the initial contribution. These refund checks have already been issued to the appropriate donors.²

² Refund documentation labeled as Appendix B.

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The Democratic National Committee's complaint blustered about John McCain 2008 receiving 6,653 excessive contributions.³ But further inspection reveals that John McCain 2008's strict controls and procedures have produced a remarkable compliance record, particularly considering the immense volume of contributions received. Any issues that linger are relatively minor and can be resolved speedily without expending additional Commission resources. The Commission should therefore find that no violation occurred and should dismiss this Matter.

Respectfully Submitted,


Trevor Potter

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³ Complaint of the Democratic National Committee (Oct. 24, 2008) at 3.